

STATE OF MICHIGAN  
COURT OF APPEALS

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FRANKENMUTH MUTUAL INSURANCE  
COMPANY,

Plaintiff-Appellant,

v

TITAN INSURANCE COMPANY,

Defendant-Appellee.

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UNPUBLISHED  
October 25, 2005

No. 262345  
Genesee Circuit Court  
LC No. 03-076529-NZ

Before: Fort Hood, P.J., and White and O'Connell, JJ.

WHITE, J. (*concurring*).

I agree that the circuit court erred in granting summary disposition to defendant.

Defendant correctly observes that this case is controlled by *Pioneer State Ins v Titan Ins* 252 Mich App 330, 336-337; 652 NW2d 469 (2002). While *Pioneer State* involved interpretation of MCL 500.3115(1)(a), which uses the words “[I]nsurers of owners or registrants of motor vehicles involved in the accident,” the use of the plural in this section simply reflects that multiple vehicles may be involved in an accident in which a pedestrian or non-occupant is injured. Correspondingly, the use of the singular in MCL 500.3114(4)(a) reflects that a person can only occupy one vehicle. The same principles are involved in both sections, however.

MCL 500.3115(1)(a) and MCL 500.3114(4)(a) both address the situation of a claimant who does not have insurance applicable to him under MCL 500.3114(1), and who therefore is directed by statute to look to the insurers of the owners or registrants, or operators, of the vehicles involved in the accident, if a pedestrian, or of the vehicle occupied, if an occupant. In *Pioneer*, in the case of a pedestrian who had no insurance under MCL 500.3114(1), the Court held that the insurer of the owner of the vehicle involved in the accident, rather than an insurer assigned by the Assigned Claims Facility, MCL 500.3171, was liable for PIP benefits notwithstanding that the insurer of the owner did not insure the vehicle that was involved in the accident. The Court concluded that under the plain language of the statute, liability attaches to the insurer of the owner or registrant of the vehicle, without regard to whether the insurer has issued insurance applicable to the vehicle involved in the accident. The Court noted that when the Legislature intended to tie liability to the insurance covering the vehicle, rather than the owner, it explicitly so provided. *Pioneer*, *supra* at 336-337, citing MCL 500.4114(2) and (3). The use of the singular “insured” in MCL 500.3115(1) is not dispositive, where the language in

500.3114(4)(a), like the language in 500.3115(1)(a), refers to the insurer of the owner or registrant of the motor vehicle.

/s/ Helene N. White